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RESPONSE UNDER 37 C.F.R. §1.116
EXPEDITED PROCEDURE
GROUP ART UNIT 3616

Attorney Docket No. ATI-291

UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Toan C. To

Art Unit: 3616

Re: Application of:

David S. Breed et al.

Serial No.:

10/058,706

Filed:

January 28, 2002

For:

Vehicular Occupant Characteristic
Determination System and Method

Confirmation No.:

7750

Customer Number:

22846

AMENDMENT UNDER 37 C.F.R. §1.116

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

December 27, 2004

Dear Sir:

In response to the Office Action dated August 25, 2004 which set a three month shortened statutory period for reply expiring on November 25, 2004 (and which is extended to December 27, 2004 upon submission of a petition for a one-month extension below), please amend the above-identified application as follows.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

FACSIMILE TRANSMISSION CERTIFICATION

I hereby certify that this amendment is being transmitted by facsimile to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 27, 2004.
Fax No. 703 872-9306

Brian Roffe

quantified and analyzed to obtain information about the objects from which the waves have been reflected, it is inherent that a detection of whether absorption of the waves has occurred (as set forth in claims 1, 15, 23 and 24) is also being considered.

A detection of whether absorption of the waves has occurred is a feature which flows as a matter of course from a detection of the reflected waves regardless of the frequency of the waves. For example, once waves are transmitted, if no reflected waves are detected, then it is clear that there is an object in the path of the transmitted waves (in the vehicle compartment) and that all of the transmitted waves have been absorbed by whatever object is in the path of the transmitted waves. Similarly, if the reflected waves have the same properties as the transmitted waves, it is likely that the waves did not encounter any object in their path which would absorb even a small part of the waves, i.e., no object is present in the vehicle compartment. Accordingly, a detection of whether absorption of a transmitted energy signal has occurred is equivalent to a detection of a reflected energy signal, and analysis thereof.

The feature of detecting and analyzing reflected waves is amply disclosed in the '139 patent. Indeed, in the '139 patent, repeated disclosure is made of waves reflected by an occupant in a compartment of a vehicle being analyzed to obtain information about the occupant. In light of the analysis above relating to the relationship between reflectivity of waves and absorbability of waves, the absorption of waves by the occupant is also being analyzed in the sense that such absorption is detected (as reflected in the degree to which waves are reflected by the occupant) and an absorption signal indicative thereof is provided (a signal indicative of the reflectivity of the waves is also indicative of the absorbability of the waves).

In view of the foregoing, it is respectfully submitted that the subject matter of the pending claims is adequately disclosed the application which matured into the '139 patent, which has a filing date before that of Cooper. As such, Cooper should not be available as prior art and accordingly, the Examiner's rejection of claims 1-5, 7-21, 23 and 24 as being anticipated by Cooper has been overcome and should be removed.

If the Examiner should determine that any changes to the claims are necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

Petition for Extension

Applicants hereby petition the Commissioner for Patents for a one-month extension to extend the time for response to the Office Action dated August 25, 2004 for one month from November 25, 2004 to December 27, 2004. The petition fee of \$120 should be charged to Deposit Account No. 50-0266.